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ORIGINAL  
FILED

OCT 29 2007

Attorneys for Defendants

JOHNSON & JOHNSON, MCNEIL CONSUMER

HEALTHCARE, a Division of MCNEIL-PPC, INC.,

MCKESSON CORPORATION, and WAL-MART

STORES, INC.

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

LMC

THOMAS B. GAINES, a deceased minor  
child by and through his personal  
representative(s) and/or successor(s) in  
interest; DIANA L. GAINES, individually,  
as Executor of the Estate of Thomas B.  
Gaines, and as Thomas B. Gaines' personal  
representative and successor in interest;  
GARY D. GAINES, individually and as  
Thomas B. Gaines' personal representative  
and successor in interest; and THE  
ESTATE OF THOMAS B. GAINES,

Plaintiffs,

v.

JOHNSON & JOHNSON, a New Jersey  
corporation; MCNEIL CONSUMER &  
SPECIALTY PHARMACEUTICALS, a  
Division of MCNEIL-PPC, INC., a New  
Jersey corporation; MCKESSON  
CORPORATION, a Delaware corporation;  
WAL-MART STORES, INC., a Delaware  
corporation; and DOES 1 through 100,  
inclusive,

Defendants.

Case No.

07 5503

DECLARATION OF THOMAS W.  
PULLIAM, JR. IN SUPPORT OF  
REMOVAL OF ACTION UNDER 28  
U.S.C. § 1441(b) [DIVERSITY]

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1 I, THOMAS W. PULLIAM, JR., declare:

2 1. I am an attorney admitted to practice before all courts of the State of  
3 California and am a partner with Drinker Biddle & Reath, LLP, attorneys for Defendants  
4 Johnson & Johnson, McNeil Consumer Healthcare Division of McNeil-PPC, Inc.  
5 (erroneously sued as McNeil Consumer & Specialty Pharmaceuticals, a Division of  
6 McNeil-PPC, Inc.) ("McNeil"), Wal-Mart Stores, Inc. ("Wal-Mart"), and McKesson  
7 Corporation ("McKesson") in this action (collectively "Defendants"). I make this  
8 Declaration based on my personal knowledge, in support of Johnson & Johnson's,  
9 McNeil's, and Wal-Mart's (collectively "Removing Defendants") removal of *Gaines, et.*  
10 *al. v. Johnson & Johnson, et. al.* (Case No. CGC-06-457600, Superior Court, County of  
11 San Francisco, California) to this Court. I would and could competently testify to the  
12 matters stated in this Declaration if called as a witness.

13 2. True and accurate copies of the Summons and Complaint in this action are  
14 attached as **Exhibit A**. The only other state court pleadings known to Defendants to have  
15 been filed and served on Defendants in this action are attached as **Exhibit B**. For the  
16 Court's convenience, a true and accurate copy of the Answer filed by Defendants in this  
17 action is attached as **Exhibit C**.

18 3. Johnson & Johnson was and is a corporation existing under the laws of the  
19 State of New Jersey, with its principal place of business in New Jersey.

20 4. McNeil was and is a corporation existing under the laws of the State of  
21 New Jersey, with its principal place of business in Pennsylvania.

22 5. Wal-Mart was and is a corporation existing under the laws of the State of  
23 Delaware, with its principal place of business in Arkansas.

24 6. McKesson was and is a corporation existing under the laws of the State of  
25 Delaware, with its principal place of business in San Francisco, California. McKesson  
26 consents to removal of this action to this Court.

27 7. The Removing Defendants will file a notice of the filing of this Notice of  
28 Removal and Removal in the San Francisco County Superior Court and will serve

1 plaintiffs' counsel with a copy.

2 8. Attached as **Exhibit D** is a true and accurate copy of Plaintiffs' Responses  
3 to Defendants' First Set of Special Interrogatories, served on February 12, 2007.

4 9. Attached as **Exhibit E** is a true and accurate copy of Plaintiffs'  
5 Supplemental Responses to Defendants' First Set of Special Interrogatories, served on  
6 May 3, 2007.

7 10. Attached as **Exhibit F** is a true and accurate copy of McKesson's Response  
8 to Plaintiffs' Special Interrogatories, Set One, served August 6, 2007.

9 11. Attached as **Exhibit G** is a true and accurate copy of Wal-Mart's Response  
10 to Plaintiffs' Special Interrogatories, Set One, served August 6, 2007.

11 12. Attached as **Exhibit H** is a true and correct copy of Plaintiffs'  
12 Supplemental Response to Defendants' First Request for Production of Documents,  
13 served on May 3, 2007, including three news articles (dated April 15, 2002, November  
14 24, 2006, and November 25, 2006) that were attached thereto.

15 13. Attached as **Exhibit I** is a true and accurate copy of the Declaration of  
16 Beverly Taylor, Pharmacy Manager for the pharmacy of the Wal-Mart Store in  
17 Lincolnton, North Carolina (Store 1209). Defendants' counsel received the Declaration  
18 of Beverly Taylor on October 9, 2007.

19 I declare under penalty of perjury under the laws of the United States of America that  
20 the foregoing is true and correct. Executed on October 29, 2007.

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23 THOMAS W. PULLIAM, JR.  
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